

April Hyatt
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**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

State of Connecticut
Department of Public Health

vs.

April Hyatt, LPN
Licensed Practical Nurse License No. 023971
Respondent.

CASE PETITION NO. 960119-11-001

MEMORANDUM OF DECISION

INTRODUCTION

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Public Health (hereinafter the "Department") with a Statement of Charges and Motion for Summary Suspension dated February 5, 1996 (Department Exhibit 1-G). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by April Hyatt (hereinafter the "Respondent") which would subject the Respondent's Licensed Practical Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of the Respondent presented a clear and immediate danger to public health and safety. On February 7, 1996, the Board ordered, pursuant to its authority under §19a-17(c) of the General Statutes of Connecticut, that the Licensed Practical Nurse license of the Respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges (Department Exhibit 1-G).

The Board issued a Notice of Hearing dated February 7, 1996, scheduling a hearing for February 21, 1996 (Department Exhibit 1-G). The hearing took place on February 21, 1996, in Room B-120, Department of Public Health, 150 Washington Street, Hartford, Connecticut.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record and the Board's specialized professional knowledge in evaluating the evidence.

FACTS

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. April Hyatt, hereinafter referred to as the Respondent, was issued Licensed Practical Nurse License Number 023971 on June 3, 1991. The Respondent was the holder of said license at all times referenced in the Statement of Charges. (Department Exhibit 1-A)
2. The Respondent was given due notice of the hearing and charges against her. Department Exhibit 1-G indicates that the Summary Suspension Order, Statement of Charges, and Notice of Hearing were served on the Respondent by Deputy Sheriff on February 15, 1996.
3. The Respondent was present during the hearing but was not represented by counsel. (Hearing Transcript, February 21, 1996, p. 2)
4. During the hearing the Respondent orally answered the Statement of Charges. (Hearing Transcript, February 21, 1996, pp. 4-7)
5. Pursuant to a Memorandum of Decision dated August 31, 1995, the licensed practical nurse license of the Respondent was placed on probation for a period of four (4) years effective September 1, 1995. The probation was ordered due to the Respondent's diversion and abuse of controlled substances, and

for falsification of controlled substance records while employed as a licensed practical nurse at Middlesex Memorial Hospital and Harbor Hill Care Center, Middletown, Connecticut, and Cobalt Lodge Convalescent Home, Cobalt, Connecticut. (Department Exhibit 1-B)

6. Conditions of probation of the Respondent's licensed practical nurse license included the requirements that the Respondent shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for her, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications, and that the Respondent shall not abuse or excessively use alcohol and/or drugs. (Department Exhibit 1-B)
7. From on or about November 1994 to on or about January 6, 1996, the Respondent was employed as a licensed practical nurse at Cobalt Lodge Convalescent Home, Cobalt, Connecticut. (Department Exhibit 1-B3, 1-C, 1-F)
8. On or about January 6, 1996, while working as a licensed practical nurse at Cobalt Lodge Convalescent Home, the Respondent diverted for her own personal use the controlled substances Percocet and Tylenol with Codeine #3. (Department Exhibit 1-D, 1-E, 1-F) (Answer: Hearing Transcript, February 21, 1996, pp. 4-5)
9. On or about January 6, 1996, while working as a licensed practical nurse at Cobalt Lodge Convalescent Home, the Respondent accomplished the diversion of controlled substances by substituting Vitamin C for Percocet, and Plain Tylenol for Tylenol with Codeine #3 in the medication blister packs of patients. (Department Exhibit 1-D, 1-E) (Answer: Hearing Transcript, February 21, 1996, pp. 4)
10. The Respondent had a relapse of her substance abuse on or about December 22, 1995. (Department Exhibit 1-F1)

DISCUSSION AND CONCLUSIONS

In consideration of the above Findings of Fact, the following conclusions are rendered:

April Hyatt held a valid Licensed Practical Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Summary Suspension Order, Notice of Hearing and Statement of Charges sufficiently provided legal notice as mandated by the General Statutes of Connecticut §4-177, §4-182 and §19a-17. The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19-2a-1 through §19-2a-30 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided the Respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by the General Statutes of Connecticut §4-182(c).

The FIRST COUNT PARAGRAPH 2 of the Statement of Charges alleges that on or about January 6, 1996, while working as a licensed practical nurse at Cobalt Lodge Convalescent Home, Cobalt, Connecticut the Respondent:

- "a. substituted Vitamin C for Percocet and/or Plain Tylenol for Tylenol #3 in the "Bingo Cards" of patients...;
- b. diverted Percocet and Tylenol #3 from patient stock for her own use; and/or
- c. abused or utilized to excess the controlled substances Percocet and Tylenol #3."

The Respondent admits these charges. (Answer: Hearing Transcript, February 21, 1996, pp. 4-5)

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in performing usual nursing functions... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals... (6) fraud or material deception in the course of professional services or activities...."

Based on its findings and the Respondent's admission, the Board concludes that the Respondent's conduct as alleged in First Count Paragraph 2 of the Statement of Charges is proven and that said conduct constitutes violations of the General Statutes of Connecticut §20-99(b)(2)(5) and (6). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

The Second Count of the Statement of Charges alleges that while subject to conditions of probation of her licensed practical nurse license, as set forth in a Memorandum of Decision dated August 31, 1995, the Respondent obtained and/or personally used the controlled substances Percocet and Tylenol #3 without a valid prescription.

The Respondent admits this charge. (Hearing Transcript, February 21, 1996, pp. 6-7)

Based on its findings, the Board concludes that the Department proved by a preponderance of the evidence, that while subject to conditions of probation of her licensed practical nurse license, the Respondent obtained and personally used controlled substances for which she did not have a valid prescription. The Board concludes that said conduct constitutes a violation of the probation as set forth in the Memorandum of Decision dated August 31, 1995. Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

ORDER

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

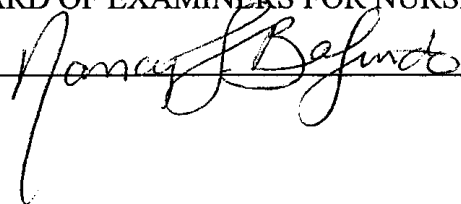
1. That for First Count and the Second Count of the Statement of Charges, the Respondent's licensed practical nurse license, No. 023971 is revoked.
2. Revocation shall become effective on the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing finds the misconduct regarding the First Count and the Second Count is severable and each specific offense warrants the disciplinary action imposed.

The Board of Examiners for Nursing hereby informs the Respondent, April Hyatt and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 24th day of July, 1996.

BOARD OF EXAMINERS FOR NURSING

By 

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